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12 **Attorneys for Boston Retirement Board**

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**
16

17 MARTIN VOGEL and KENNETH)
18 MAHONEY, on Behalf of Themselves and All)
19 Others Similarly Situated,)

20 Plaintiffs,)

21 vs.)

22 STEVEN P. JOBS, PETER OPPENHEIMER,)
23 FRED ANDERSON, WILLIAM V.)
24 CAMPBELL, MILLARD S. DREXLER,)
25 ALBERT GORE, JR., ARTHUR D.)
26 LEVINSON, JEROME P. YORK AND)
27 APPLICE COMPUTER, INC.,)

28 Defendants.)

Case No. C06-05208-JF

CLASS ACTION

**NOTICE OF PENDENCY OF OTHER
ACTION OR PROCEEDING**

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE, pursuant to Local Rule 3-13, that *Boston Retirement Board v.*
3 *Jobs, et al.*, Case No. 1-08-CV-110403, filed on April 14, 2008 in the Superior Court of California,
4 County of Santa Clara, involves all, or a material part of, the same subject matter and all, or
5 substantially all, of the same parties in *Vogel, et al. v. Jobs, et al.*, Case No. C-06-05208 JF, which is
6 pending in this Court.

7 While *Boston Retirement Board v. Jobs* is a derivative action and *Vogel, et al., v. Jobs, et al.*
8 is a direct class action, both assert claims on behalf of shareholders of Apple Inc. against present and
9 former members of Apple's Board of Directors and senior executives and are based on the same
10 underlying factual allegations involving stock option backdating. A copy of the form used to give
11 notice of a related action as required by Rule 3.300(b) of the California Rules of Court is attached as
12 Exhibit A and will be filed in the Superior Court of California, County of Santa Clara and served on
13 all the parties as listed in Exhibit A.

14 Dated: April 29, 2008

**BERMAN DeVALERIO PEASE TABACCO
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15
16 By: 

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EXHIBIT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph J. Tabacco Jr. (75484) Nicole Lavallee (165755) Berman DeValerio Pease Tabacco Burt & Pucillo 425 California St., Suite 2100 San Francisco, CA 94104 TELEPHONE NO.: (415) 433-3200 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Boston Retirement Board	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 N. First Street MAILING ADDRESS: 191 N. First Street CITY AND ZIP CODE: San Jose 95113 BRANCH NAME: Downtown Superior Court	
PLAINTIFF/PETITIONER: Boston Retirement Board DEFENDANT/RESPONDENT: Jobs, et al.	CASE NUMBER: 108CV110403 JUDICIAL OFFICER:
NOTICE OF RELATED CASE	DEPT.:

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: **In re Apple Computer, Inc. Derivative Litigation**
 b. Case number: **1-06-CV-066692**
 c. Court: ☒ same as above
☐ other state or federal court (name and address):
 d. Department:
 e. Case type: ☐ limited civil ☒ unlimited civil ☐ probate ☐ family law ☐ other (specify):
 f. Filing date: **July 5, 2006**
 g. Has this case been designated or determined as "complex?" ☐ Yes ☒ No
 h. Relationship of this case to the case referenced above (check all that apply):
☐ involves the same parties and is based on the same or similar claims.
☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
☐ involves claims against, title to, possession of, or damages to the same property.
☒ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
☐ Additional explanation is attached in attachment 1h
 i. Status of case:
☒ pending
☐ dismissed ☐ with ☐ without prejudice
☐ disposed of by judgment
2. a. Title: **In re APPLE INC., DERIVATIVE LITIGATION**
 b. Case number: **5:06-cv-04128-JF**
 c. Court: ☐ same as above
☒ other state or federal court (name and address): **U.S. District Court, Northern District of California**
 d. Department: **San Jose, 280 South 1st St. San Jose, CA 95113**

PLAINTIFF/PETITIONER: Boston Retirement Board	CASE NUMBER:
DEFENDANT/RESPONDENT: Jobs, et al.	108CV110403

2. (continued)

- e. Case type: ☐ limited civil ☐ unlimited civil ☐ probate ☐ family law ☐ other (specify):
- f. Filing date: June 30, 2006
- g. Has this case been designated or determined as "complex?" ☐ Yes ☐ No
- h. Relationship of this case to the case referenced above (check all that apply):
- ☐ involves the same parties and is based on the same or similar claims.
- ☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property.
- ☒ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- ☐ Additional explanation is attached in attachment 2h
- i. Status of case:
- ☐ pending
- ☒ dismissed ☐ with ☒ without prejudice
- ☐ disposed of by judgment

3. a. Title: Vogel et al. v. Jobs et al.

b. Case number: 5:06-cv-05208-JF

c. Court: ☒ same as above

☐ other state or federal court (name and address):

d. Department:

e. Case type: ☐ limited civil ☐ unlimited civil ☐ probate ☐ family law ☐ other (specify):

f. Filing date: August 24, 2006

g. Has this case been designated or determined as "complex?" ☐ Yes ☐ No

h. Relationship of this case to the case referenced above (check all that apply):

- ☐ involves the same parties and is based on the same or similar claims.
- ☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property.
- ☒ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- ☐ Additional explanation is attached in attachment 3h

i. Status of case:

- ☐ pending
- ☒ dismissed ☐ with ☒ without prejudice
- ☐ disposed of by judgment

4. ☐ Additional related cases are described in Attachment 4. Number of pages attached: _____

Date: 4/29/08

James Magid

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)

(SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF/PETITIONER: Boston Retirement Board	CASE NUMBER:
DEFENDANT/RESPONDENT: Jobs, et al.	108CV110403

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF RELATED CASE**

(NOTE: You cannot serve the Notice of Related Case if you are a party in the action. The person who served the notice must complete this proof of service. The notice must be served on all known parties in each related action or proceeding.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

425 California Street, Suite 2100
San Francisco, CA 94104

2. I served a copy of the *Notice of Related Case* by enclosing it in a sealed envelope with first-class postage fully prepaid and (*check one*):
- a. ☐ deposited the sealed envelope with the United States Postal Service.
- b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
3. The *Notice of Related Case* was mailed:
- a. on (*date*): April 29, 2008
- b. from (*city and state*): San Francisco, CA, 94104

4. The envelope was addressed and mailed as follows:

- a. Name of person served:

See Attached List

Street address:

City:

State and zip code:

- c. Name of person served:

Street address:

City:

State and zip code:

- b. Name of person served:

Street address:

City:

State and zip code:

- d. Name of person served:

Street address:

City:

State and zip code:

☒ Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: APRIL 29, 2008

TYLER K. KELLY

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

PROOF OF SERVICE BY MAIL

I, Tyler Kelly, declare, that I am over the age of 18 years and not a party to this action. My business address is 425 California Street, Suite 2100, San Francisco, CA 94104. On April 29, 2008, I served NOTICE OF RELATED CASE on the following, by placing true copies of same in sealed envelopes, addressed as shown below, and depositing them in the United States Mail at San Francisco, California.

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Defendants William V. Campbell, Millard Drexler, Steven P. Jobs, Arthur D. Levinson, and Jerome B. York

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, on April 29, 2008.


Tyler Kelly